

DOCKET NO.: UPN0008-100

B  
PATENT  
P

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: **David B. Weiner *et al.***

Serial No.: **09/888,860**

Group Art Unit: **1636**

Filed: **June 25, 2001**

Examiner: **Maria Marvich**

Title: **EXPRESSION SYSTEMS FOR CLONING TOXIC GENES**

I certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail Label No. EL964553443US, in an envelope addressed to the Mail Stop: Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

On August 13, 2004

  
Paul K. Legaard, Regis. No. 38,534

Mail Stop: Issue Fee  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT  
UNDER 37 CFR §1.181**

Applicants respectfully request that the Notice of Abandonment dated July 14, 2004, be withdrawn. No fee appears to be necessary. If a fee is deemed necessary, the present Petition is accompanied by the authorization to charge the Deposit Account the appropriate fee.

**Statement of Facts Involved**

1. The U.S. Patent and Trademark Office (PTO) mailed a Notice of Allowance and Issue Fee Due statement on November 7, 2003 (see Exhibit A, enclosed herewith), indicating a maximum deadline for payment of the Issue Fee of February 9, 2004.

2. Applicants' undersigned representative (Paul K. Legaard) held a telephone interview with Examiner Maria B. Marvich on January 20, 2003, at which time the Examiner indicated acceptance of the drawings. Mr. Legaard requested a corrected Notice of Allowability indicating that the drawings were accepted by the Examiner. See Interview Summary (Exhibit B, enclosed herewith).

3. Because no corrected Notice of Allowability was received prior to the deadline for paying the Issue Fee, Applicants' undersigned representative paid the issue fee on February 5, 2004, by filing via first class mail, PTO Form PTOL-85, with authorization to charge deposit account in the amount of \$665 for issue fee payment and \$30 for 10 advance copies of patent, along with PTO/SB/122 Change of Correspondence Address (see Exhibit C, enclosed herewith which also includes time-stamped postcard).

4. The PTO debited Applicants' deposit account on February 12, 2004 in the amount of \$695.00 (see Exhibit D, enclosed herewith).

5. The U.S. Patent and Trademark Office mailed a corrected Notice of Allowance and Issue Fee Due statement on February 19, 2004 (see Exhibit E, enclosed herewith), which was after the maximum deadline for paying the Issue Fee.

6. The PTO mailed a Notice of Abandonment on July 14, 2004 (see Exhibit F, enclosed herewith).

**Action Requested**

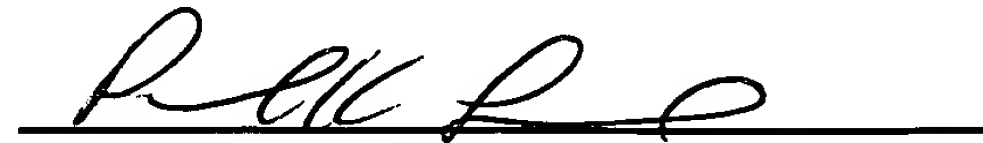
Because the facts stated above clearly indicate that Applicants indeed responded in a timely manner to the PTO Notice of Allowance and Issue Fee Due originally mailed November 7, 2003 and because the corresponding Notice of Allowance was not mailed by the PTO until after the deadline for paying the Issue Fee, Applicants respectfully request that the Notice of

**DOCKET NO.: UPN0008-100**

**PATENT**

Abandonment dated July 14, 2004 be withdrawn, and that the amount debited on February 12 2004 be credited to the payment of the Issue Fee in connection with the corrected Notice of Allowance dated February 19, 2004.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Paul K. Legaard', is written over a solid horizontal line.

**Paul K. Legaard**

Registration No. 38,534

Date: August 13, 2004

COZEN O'CONNOR

1900 Market Street

Philadelphia, PA 19103-3508

Telephone: 215.665.6914

Facsimile: 215.665.2013



## UNITED STATES PATENT AND TRADEMARK OFFICE

UPN 1008-100

MD/PRK

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

## NOTICE OF ALLOWANCE AND FEE(S) DUE

**RECEIVED**  
COZEN IP DEPT.

7590

11/07/2003

Paul K. Legaard  
WOODCOCK WASHBURN KURTZ  
MACKIEWICZ & NORRIS LLP  
One Liberty Place-46th Floor  
Philadelphia, PA 19103

**RECEIVED**

NOV 13 2003

NOV 11 2003

DUE DATE

MAX DATE

DOCKETED BY

Woodcock Washburn

EXAMINER

MARVICH, MARIA

ART UNIT

PAPER NUMBER

1636

DATE MAILED: 11/07/2003

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,860	06/25/2001	David B. Weiner	UPN-3983	1975

TITLE OF INVENTION: EXPRESSION SYSTEM FOR CLONING TOXIC GENES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$665	\$0	\$665	02/09/2004

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

## HOW TO REPLY TO THIS NOTICE:

## I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

☐ Applicant claims SMALL ENTITY status.  
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# Notice of Allowability

Application No.

09/888,860

Examiner

Maria B Marvich, PhD

Applicant(s)

WEINER ET AL.

Art Unit

1636

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/10/03.
2. ☒ The allowed claim(s) is/are 5,9-12, 16 and 18-19 (Now Claims 1-8).
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment/Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

- |  |  |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____    |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____               | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment         |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|  | 9 <input type="checkbox"/> Other   |

Art Unit: 1636

### EXAMINER'S AMENDMENT

This office action is in response to an amendment filed 9/10/03, this amendment has been entered. Claims 5, 9-12, 14-16 are pending.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Paul Legaard on 10/16/03.

In claim 5, line 10, the phrase "said toxic gene" prior to "is inserted into said polylinker" has been deleted and replaced with the phrase --a nucleotide sequence encoding a toxic gene product--.

In claim 10, line 1 following "said nucleic acid molecule", the phrase --encoding a toxic protein--has been inserted.

Claim 14 (Canceled)

Claim 15 (Canceled)

Claim 18. (New Claim) A bacterial cell comprising the vector of claim 9.

Claim 19. (New Claim) A mammalian cell comprising the vector of claim 9.

<b>Interview Summary</b>	<b>Application No.</b> 09/888,860	<b>Applicant(s)</b> WEINER ET AL.	
	<b>Examiner</b> Maria B Marvich, PhD	<b>Art Unit</b> 1636	

All participants (applicant, applicant's representative, PTO personnel):

(1) Maria B Marvich, PhD. (3) \_\_\_\_\_.

(2) Paul Legard. (4) \_\_\_\_\_.

Date of Interview: 20 January 2003.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: \_\_\_\_\_.

Identification of prior art discussed: \_\_\_\_\_.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: A corrected notice of allowability indicating whether the latest drawings were accepted was requested as the previous notice of allowability did not indicate drawing status.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

\_\_\_\_\_  
Examiner's signature, if required



## PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
or **Fax** (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)


7590 11/07/2003

Paul K. Legaard  
WOODCOCK WASHBURN KURTZ  
MACKIEWICZ & NORRIS LLP  
One Liberty Place-46th Floor  
Philadelphia, PA 19103

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO, on the date indicated below.

Paul K. Legaard	(Depositor's name)
	(Signature)
February 5, 2004	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,860	06/25/2001	David B. Weiner	UPN-3983	1975

TITLE OF INVENTION: EXPRESSION SYSTEM FOR CLONING TOXIC GENES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$665	\$0	\$665	02/09/2004

EXAMINER	ART UNIT	CLASS-SUBCLASS
MARVICH, MARIA	1636	435-091100

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☒ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Cozen O'Connor

2 Mark DeLuca

3 Paul K. Legaard

## 3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

The Trustees of the University of Pennsylvania, Philadelphia, Pennsylvania

Please check the appropriate assignee category or categories (will not be printed on the patent); ☐ individual ☒ corporation or other private group entity ☐ government

## 4a. The following fee(s) are enclosed:

- ☒ Issue Fee  
☐ Publication Fee  
☒ Advance Order - # of Copies 10

## 4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.  
☐ Payment by credit card. Form PTO-2038 is attached.  
☒ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 50-1275 (enclose an extra copy of this form).

Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature)  (Date)

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMIT THIS FORM WITH FEE(S)



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>CHANGE OF CORRESPONDENCE ADDRESS Application</b>  Address to: Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450.	Application Number	09/888,860
	Filing Date	June 25, 2001
	First Named Inventor	David B. Weiner
	Art Unit	1636
	Examiner Name	Maria Marvich
	Attorney Docket Number	UPN0008-100

Please change the Correspondence Address for the above-identified application to:

☒ Customer Number: 34136

OR

☐ Firm or  
Individual Name

Address

Address

City

State

ZIP

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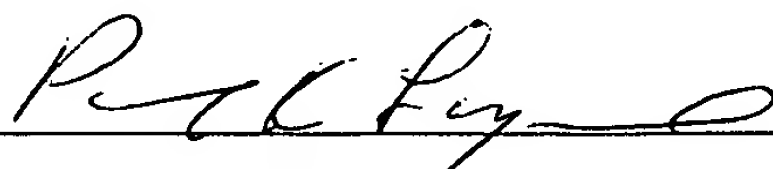
This form cannot be used to change the data associated with a Customer Number. To change the data associated with an existing Customer Number use "Request for Customer Number Data Change" (PTO/SB/124).

I am the :

- ☐ Applicant/Inventor.
- ☐ Assignee of record of the entire interest.  
Certificate under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).
- ☒ Attorney or agent of record. Registration Number 38,534
- ☐ Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number

 Typed or  
Printed Name Paul K. Legaard

Signature



Date February 5, 2004

Telephone 215-665-6914

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☐ \*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**RECEIVED BY THE UNITED STATES PATENT AND  
TRADEMARK OFFICE**

Paper: PTO Form PTOL-85 in duplicate w/first class mail certificate;  
authorization to charge deposit account 50-1275 for issue fee payment  
(\$665.00), publication fee (\$300.00) and order for 10 advance copies of  
patent (\$30.00); Change of Correspondence Address

Applicant(s): David B. Weiner et al.

Title: EXPRESSION SYSTEMS FOR CLONING TOXIC GENES

Serial No: 09/888,860

Filed: June 25, 2001

Docket No.: UPN0008-100

Date Sent: February 5, 2004 PKLegaard:CHill

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TRADEMARK OFFICE**

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Patent and  
Trademark Office**

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Page**Deposit Account Statement**

Requested Statement Month: February 2004  
 Deposit Account Number: 501275  
 Name: COZEN AND O'CONNOR  
 Attention: MICHAEL B. FEIN  
 Address: 1900 MARKET STREET  
 City: PHILADELPHIA  
 State: PA  
 Zip: 19103

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
02/02	203	60454396	133226 & 7132114 & 135765	8007	\$20.00	\$21,9
02/02	204	10341864	133226 & 7132114 & 135765	8007	\$20.00	\$21,8
02/02	205	60455072	133226 & 7132114 & 135765	8007	\$20.00	\$21,8
02/02	456	60466009		8021	\$40.00	\$21,8
02/02	1013	76183889	BHF-0002; 126661	7004	\$300.00	\$21,5
02/02	1038	76183086	BHF-0003; 126643	7004	\$150.00	\$21,3
02/02	1050	76183888	BHF-0004; 126660	7004	\$300.00	\$21,0
02/02	1181	10149200		8021	\$40.00	\$21,0
02/03	2	09680690	UPVG-0192	1253	\$950.00	\$20,0
02/03	80	09950955	CELL-0141	1255	\$2,010.00	\$18,0
02/03	121	10766718	CELL0001-106	1001	\$770.00	\$17,3
02/03	122	10766718	CELL0001-106	1201	\$258.00	\$17,0
02/03	123	10766718	CELL0001-106	1202	\$882.00	\$16,1
02/03	245	1819252	2003389/1 103489.000	8521	\$40.00	\$16,1
02/04	1	10068093	119959	2201	\$129.00	\$15,9
02/04	47	1108950	HSI-001/076276	6401	\$300.00	\$15,6
02/04	48	76436860		6403	\$100.00	\$15,5
02/04	70	76572994		6001	\$335.00	\$15,2
02/04	71	76572995		6001	\$335.00	\$14,9
02/04	78	10677953	CHIR0006-100(19696)	1202	-\$2,574.00	\$17,4
02/04	79	10677953	CHIR0006-100(19696)	1201	-\$258.00	\$17,7
02/04	80	10677953	CHIR0006-100(19696)	1202	\$2,556.00	\$15,2
02/04	81	10677953	CHIR0006-100(19696)	1201	\$1,806.00	\$13,3
02/04	85	PCT/US03/20821	ISIS0037-500	1605	\$600.00	\$12,7
02/04	86	PCT/US03/20821	ISIS0037-500	1705	\$148.00	\$12,6
02/04	102	76382420	VERD-0002/138688	6003	\$100.00	\$12,5
02/04	124	10466495	BTG0009-100/142964	1617	\$130.00	\$12,4
02/04	125	10466495	BTG0009-100/142964	1251	\$110.00	\$12,3

02/04	253	09826509	17.US3.REG	2801	\$385.00	\$11,9
02/05	1	09400150		1251	\$110.00	\$11,8
02/05	16	09899495	00188.US1	1253	\$950.00	\$10,8
02/05	49	60518939	WYTH0048-001/AM101390)	8021	\$40.00	\$10,8
02/05	61	866983	#129404	8521	\$40.00	\$10,7
02/05	62	866983	#129404	8522	\$150.00	\$10,6
02/05	85	76573342		6001	\$670.00	\$9,96
02/05	163	60509575	INTE0007-001	8021	\$40.00	\$9,92
02/05	264	60509575		8021	\$40.00	\$9,88
02/06	2	PCT/US03/38417	IBIS0055-502	1703	-\$684.00	\$10,5
02/06	3	PCT/US03/38417	IBIS0055-502	1703	\$672.00	\$9,89
02/06	17	PAYMENT		9203	-\$20,000.00	\$29,8
02/06	242	10660996	IBI50064-100/DIBIS-0002US	8021	\$40.00	\$29,8
02/06	256	10660997		8021	\$40.00	\$29,8
02/06	548	10660998		8021	\$40.00	\$29,7
02/06	552	78363374	BORD	7001	\$335.00	\$29,4
02/09	67	09793807	RTS-0206	1801	\$770.00	\$28,6
02/09	68	09793807	RTS-0206	1253	\$950.00	\$27,7
02/10	3	10358636		2801	\$385.00	\$27,3
02/10	31	10660122	IBIS0061-100/DIBIS-0002US	8021	\$40.00	\$27,2
02/11	4	PCT/US03/38830	IBIS0061-500	1602	-\$700.00	\$27,9
02/11	5	PCT/US03/38830	IBIS0061-500	1603	\$450.00	\$27,5
02/11	158	60466426	ISIS0083-001/BIOL0008US.L	8021	\$40.00	\$27,5
02/11	158	1819252	2003389/1 103489.000	6205	\$200.00	\$27,3
02/11	159	1819252	2003389/1 103489.000	6201	\$800.00	\$26,5
02/11	164	60504147		8021	\$40.00	\$26,4
02/11	173	60502076	ISIS0092-002/CORE0021US.L	8021	\$40.00	\$26,4
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02/11	228	10068613	119961	2501	\$665.00	\$25,6
02/11	229	10068613	119961	1504	\$300.00	\$25,3
02/11	230	10068613	119961	8001	\$30.00	\$25,2
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02/11	308	09301811	242/044	2501	\$665.00	\$24,4
02/11	309	09301811	242/044	8001	\$3.00	\$24,4
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02/11	529	78177105	CRTV-0013; 128359	7004	\$300.00	\$24,1
02/12	71	10660997	IBIS0063-100(DIBIS-0047U	1051	\$130.00	\$24,0
02/12	100	10637466	ABI-0001.101	1251	\$110.00	\$23,9
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02/12	166	10660996	IBI50064-100/DIBIS-0002US	1251	\$110.00	\$23,6
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02/12	570	09888860	UPN0008-100	8001	\$30.00	\$22,6
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02/13	51	10774974	ISIS0003-102 (ISPH-0522US	1001	\$770.00	\$21,8
02/13	52	10774974	ISIS0003-102 (ISPH-0522US	1203	\$290.00	\$21,5

02/13	159	10774888	ISIS0074-101 (PTS0009US.C	1001	\$770.00	\$20,7
02/13	160	10774888	ISIS0074-101 (PTS0009US.C	1202	\$36.00	\$20,7
02/13	161	10774888	ISIS0074-101 (PTS0009US.C	1203	\$290.00	\$20,4
02/13	167	60542986	WYTH0048-002/AM101390	1005	\$160.00	\$20,2
02/13	167	10422049	CARP0003-104(P030498US1CP	1254	\$1,480.00	\$18,7
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02/13	252	08167608		8021	\$40.00	\$18,6
02/13	536	10210650	IBIS-0433	1501	\$1,330.00	\$17,3
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02/18	248	10333542	UPNOO15-101	2251	\$55.00	\$16,1
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02/18	470	10210684	IBIS-0323	1504	\$300.00	\$15,2
02/18	471	10210684	IBIS-0323	8001	\$30.00	\$15,1
02/18	516	10209692	IBIS-0431	2501	\$665.00	\$14,5
02/18	517	10209692	IBIS-0431	1504	\$300.00	\$14,2
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02/19	6	PAYMENT		9203	-\$20,000.00	\$33,8
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02/19	139	10774888	ISIS0074-101 (PTS0009US.C	8021	\$40.00	\$33,0
02/19	186	09750373	088USPHRM300	1401	\$330.00	\$32,7
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02/19	206	PCT/US04/04205	ISIC0008-500	1601	\$300.00	\$31,4
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02/19	219	78255848		6002	\$100.00	\$28,3
02/19	257	76571696	PP-0032; 127162	6002	\$200.00	\$28,1
02/19	258	60500730	ISIS0094-001/CORE0022US.L	8021	\$40.00	\$28,1
02/19	258	78318248		6002	\$200.00	\$27,9
02/19	259	78269579	PP-0036; 127162	6002	\$200.00	\$27,7
02/19	260	60500723		8021	\$40.00	\$27,6
02/19	260	78269573	PP-0035; 127162	6002	\$200.00	\$27,4
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02/20	15	10317163	AM100861	1504	\$300.00	\$25,6
02/20	16	10317163	AM100861	8001	\$45.00	\$25,6

02/20 83	78370638	CELG-375	7001	\$670.00	\$24,9
02/20 103	10723955	7.US29.CON	1001	-\$770.00	\$25,7
02/20 104	10723955	7.US29.CON	1201	-\$86.00	\$25,8
02/20 105	10723955	7.US29.CON	1202	-\$3,114.00	\$28,9
02/20 106	10723955	7.US29.CON	1203	-\$290.00	\$29,2
02/20 107	10723955	7.US29.CON	2001	\$385.00	\$28,8
02/20 108	10723955	7.US29.CON	2201	\$43.00	\$28,8
02/20 109	10723955	7.US29.CON	2202	\$1,494.00	\$27,3
02/20 110	10723955	7.US29.CON	2203	\$145.00	\$27,1
02/20 139	08167608	APOL0018	2501	\$665.00	\$26,5
02/20 140	08167608	APOL0018	8001	\$30.00	\$26,4
02/20 187	10774974	ISPH-0522	8021	\$40.00	\$26,4
02/23 136	78173102		6004	\$300.00	\$26,1
02/23 155	10780439	ISIC0006-102/ISIS-4380US.	1001	\$770.00	\$25,3
02/23 391	PCT/US03/22651	ISIS0035-500	1605	\$600.00	\$24,7
02/23 392	PCT/US03/22651	ISIS0035-500	1705	\$148.00	\$24,6
02/24 1	60513611	WYTH-0075-001	8021	\$40.00	\$24,5
02/24 6	10326642	IBIS0001-106/TIGR0005US	1806	\$180.00	\$24,4
02/24 15	PCT/US03/22835	IBIS0006-500	1605	\$600.00	\$23,8
02/24 16	PCT/US03/22835	IBIS0006-500	1705	\$148.00	\$23,6
02/24 29	09546596	ISIS-4380	2501	\$665.00	\$22,9
02/24 30	09546596	ISIS-4380	8001	\$36.00	\$22,9
02/24 31	60472723	ISIS0050-001/CORE0001US.L	8021	\$40.00	\$22,9
02/24 1290	78373069	ARA-	7001	\$1,005.00	\$21,9
02/25 22	76576483		6001	\$1,005.00	\$20,9
02/25 23	76576484		6001	\$1,005.00	\$19,8
02/25 24	76576485		6001	\$335.00	\$19,5
02/25 25	76576486		6001	\$335.00	\$19,2
02/25 26	76576487		6001	\$335.00	\$18,8
02/25 27	76576488		6001	\$335.00	\$18,5
02/25 28	76576489		6001	\$335.00	\$18,2
02/25 29	76576490		6001	\$335.00	\$17,8
02/25 30	76576491		6001	\$670.00	\$17,2
02/25 31	76576492		6001	\$335.00	\$16,8
02/25 32	76576493		6001	\$670.00	\$16,2
02/25 33	76576494		6001	\$335.00	\$15,8
02/25 75	60500732		8021	\$40.00	\$15,8
02/25 81	76576711		6001	\$335.00	\$15,5
02/25 124	10782596	AREN11.US12.CON(147325)	1001	\$770.00	\$14,7
02/25 125	10782596	AREN11.US12.CON(147325)	1201	\$516.00	\$14,2
02/25 126	10782596	AREN11.US12.CON(147325)	1202	\$126.00	\$14,0
02/25 151	60546225	UPN0018-001 (Q3395)	2005	\$80.00	\$14,0
02/25 152	60546224	UPN0017-001(P3086)	2005	\$80.00	\$13,9
02/26 90	60515315	WYTH0082-001/AM101276	8021	\$40.00	\$13,8
02/27 1	10674666	PHOE0001-100 (140707)	2202	\$72.00	\$13,8
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02/27 237	10487569	HARR0033-100	2613	\$460.00	\$33,3
02/27 238	10487569	HARR0033-100	2615	\$1,449.00	\$31,9

02/27	239	08167608		8021	\$40.00	\$31,8
02/27	239	10487569	HARR0033-100	2616	\$145.00	\$31,7
02/27	240	10487569	HARR0033-100	2614	\$43.00	\$31,6
02/27	267	78374758	PP-0069; 127162	7001	\$1,005.00	\$30,6

START	SUM OF	SUM OF	END
BALANCE	CHARGES	REPLENISH	BALANCE
\$21,923.00	\$61,642.00	\$70,396.00	\$30,677.00

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DUE DATE  
MAX DATE  
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5/19/04

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Alexandria, Virginia 22313-1450  
www.uspto.gov

**CORRECTED**  
**NOTICE OF ALLOWANCE AND FEE(S) DUE**

7590

02/19/2004

Paul K. Legaard  
WOODCOCK WASHBURN KURTZ  
MACKIEWICZ & NORRIS LLP  
One Liberty Place-46th Floor  
Philadelphia, PA 19103

RECEIVED

FEB 21 2004

Woodcock Washburn

EXAMINER

MARVICH, MARIA

ART UNIT

PAPER NUMBER

1636

DATE MAILED: 02/19/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,860	06/25/2001	David B. Weiner	<del>UPN-3983</del>	1975

TITLE OF INVENTION: EXPRESSION SYSTEM FOR CLONING TOXIC GENES

UPN 0008-100

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$0	\$0	\$0	05/19/2004

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

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FEB 23 2004

**HOW TO REPLY TO THIS NOTICE:**

**I. Review the SMALL ENTITY status shown above.**

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

☐ Applicant claims SMALL ENTITY status.  
See 37 CFR 1.27.

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II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,860	06/25/2001	David B. Weiner	UPN-3983	1975

7590 02/19/2004

Paul K. Legaard  
WOODCOCK WASHBURN KURTZ  
MACKIEWICZ & NORRIS LLP  
One Liberty Place-46th Floor  
Philadelphia, PA 19103

EXAMINER

MARVICH, MARIA

ART UNIT

PAPER NUMBER

1636

DATE MAILED: 02/19/2004

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

**Corrected  
Notice of Allowability**

Application No.

09/888,860

Examiner

Maria B Marvich, PhD

Applicant(s)

WEINER ET AL.

Art Unit

1636

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to interview 1/20/03.
2. ☒ The allowed claim(s) is/are 5, 9-12, 16 and 18-19 (Now Claims 1-8).
3. ☒ The drawings filed on 16 December 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

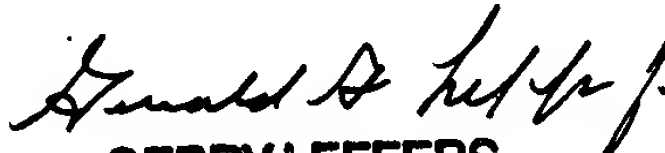
7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____    |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No. _____  | 7 <input type="checkbox"/> Examiner's Amendment/Comment                    |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9 <input type="checkbox"/> Other   |

  
**GERRY LEFFERS**  
**PRIMARY EXAMINER**

<b>Interview Summary</b>	Application No. 09/888,860	Applicant(s) WEINER ET AL.	
	Examiner Maria B Marvich, PhD	Art Unit 1636	

All participants (applicant, applicant's representative, PTO personnel):

(1) Maria B Marvich, PhD. (3) \_\_\_\_\_

(2) Paul Legard. (4) \_\_\_\_\_

Date of Interview: 20 January 2003.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
If Yes, brief description: \_\_\_\_\_

Claim(s) discussed: \_\_\_\_\_

Identification of prior art discussed: \_\_\_\_\_

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: A corrected notice of allowability indicating whether the latest drawings were accepted was requested as the previous notice of allowability did not indicate drawing status.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

\_\_\_\_\_  
Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.



# **PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to: Mail**

**Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
or Fax (703) 746-4000**

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

7590 02/19/2004

Paul K. Legaard  
WOODCOCK WASHBURN KURTZ  
MACKIEWICZ & NORRIS LLP  
One Liberty Place-46th Floor  
Philadelphia, PA 19103



Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,860	06/25/2001	David B. Weiner	UPN-3983	1975

**TITLE OF INVENTION:** EXPRESSION SYSTEM FOR CLONING TOXIC GENES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$0	\$0	\$0	05/19/2004

EXAMINER	ART UNIT	CLASS-SUBCLASS
MARVICH, MARIA	1636	435-091100

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1	_____
2	_____
3	_____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent); ☐ individual ☐ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

- ☐ Issue Fee
- ☐ Publication Fee
- ☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature)

(Date)

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Alexandria, Virginia 22313-1450.

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TRANSMIT THIS FORM WITH FEE(S)



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,860	06/25/2001	David B. Weiner	UPN-3983	1975
34136	7590	07/14/2004	EXAMINER	
COZEN O'CONNOR, P.C. 1900 MARKET STREET PHILADELPHIA, PA 19103-3508			MARVICH, MARIA	
			ART UNIT	PAPER NUMBER
			1636	

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**RECEIVED**  
**COZEN IP DEPT.**

JUL 20 2004

DUE DATE N/A  
MAX DATE         
DOCKETED BY (m)





UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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09888860

EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED:

## NOTICE OF ABANDONMENT

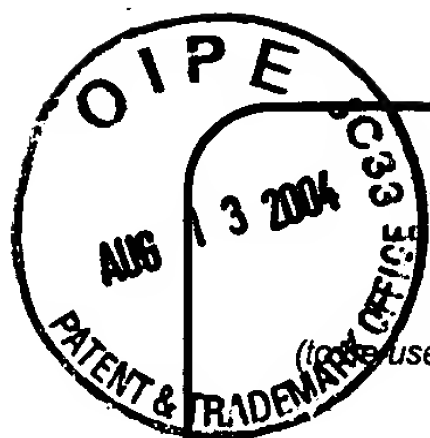
This application is abandoned in view of:

- ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.
- ☐ A reply (with Certificate of Mailing or Transmission of \_\_\_\_\_) was received on \_\_\_\_\_ which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
- ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- ☐ A reply was received on \_\_\_\_\_, but it does not constitute a proper reply, or a *bona fide* attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).
- ☐ No reply has been received.
- ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
- ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85)(or Notice of Publication Fee Due).
- ☐ The submitted fee of \$ \_\_\_\_\_ is insufficient. A balance of \$ \_\_\_\_\_ is due.  
The issue fee by 37 CFR 1.18 is \$ \_\_\_\_\_. The publication fee, if required, by 37 CFR 1.18(d) is \$ \_\_\_\_\_.
- ☒ The issue fee and publication fee, if applicable, have not been received.
- ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).
- ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
- ☐ No corrected drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below: \_\_\_\_\_

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	Application Number	09/888,860	
	Filing Date	June 25, 2001	
	First Named Inventor	David B. Weiner	
	Art Unit	1636	
	Examiner Name	Maria Marvich	
Total Number of Pages in This Submission		Attorney Docket Number	UPN0008-100

## ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <b>Exhibits A-F; postcard receipt</b>
<b>Remarks</b> The Director is authorized to: 1. Charge any necessary fee(s); 2. Credit any overpayments; 3. Charge any additional fee(s) deemed necessary; to Deposit Account No. 50-1275		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Paul K. Legaard, Regis. No. 38,534
Signature	<i>Paul K. Legaard</i>
Date	August 13, 2004

## CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as EXPRESS MAIL LABEL NO. EL964553443US in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Paul K. Legaard		
Signature	<i>Paul K. Legaard</i>	Date	August 13, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.